

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

Thomas F. Stewart, Member
Elaine Allen, Member
Lynn Willard, Member

Minutes Tuesday, September 27, 2016

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on September 27, 2016 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:30 AM.

2. Roll Call

Roll Call.

Present: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

3. Invocation

The invocation was presented by Chair Stone.

4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,
Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

6. Approval of Minutes

- a. August 10, 2016, Special Commission Meeting
- b. August 16, 2016, Regular Commission Meeting
- c. August 24, 2016, Special Commission Meeting
- d. September 9, 2016, Special Commission Meeting

Motion: Approve the minutes of the August 10, 2016, Special Meeting; August 16, 2016, Regular Meeting; August 24, 2016, Special Meeting; and the September 9, 2016, Special Meeting; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending August 31, 2016

Motion: Approval of the Consent Agenda as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Stewart commented the budget as of August 31, 2016 reflected a combined unexpended funding balance of 81.8% remaining for the fiscal year.

There was a general discussion of various expenditures and fund balances.

Commissioner Draper questioned if the Treasurer might negotiate an increase in interest rates for local deposits.

Beverly Calaway, Treasurer discussed the statutory requirement to deposit a pro rata share of funds in local banks and commented on her specific requirement for a 102% collateralization of all investments. Ms. Calaway stated while the collateralization requirement might result in a lower rate of return, it was critical to the security of Lincoln County funds.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT A: Copies of Consent Items including Amended Resolution 2016-3 are attached hereto in reference thereto made a part hereof.

8. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Anthony Sanchez, Acting District Ranger for the Smokey Bear Ranger District reported all seasonal fire fighters were released and the Ranger District was back at winter staffing levels. Acting Ranger Sanchez discussed plans to conduct controlled burns in the Hale Lake and Cedar Creek Grindstone areas. Acting Ranger Sanchez also informed Aaron Baldrige would assume the Acting Ranger position until the new District Ranger took over at the first of next year.

Commissioner Willard asked Acting Ranger Sanchez if he had an opportunity since the last meeting to research the question of the US Forest Service's maintenance responsibility for Bonito Lake Road.

Acting Ranger Sanchez stated he forwarded a copy of a court case decision resulting from a civil action filed by Orville Runnels which defined certain sections of the road as private and certain sections as the responsibility of the US Forest Service. Acting Ranger Sanchez expressed belief both the City of Alamogordo and Lincoln County were responsible for maintenance of other sections of the road.

Ms. Taylor informed she had not located any record of Memorandum of Understanding (MOU) with the Lincoln National Forest for road maintenance but commented the County did have a MOU with the Cibola National Forest for road maintenance.

Ms. Taylor reported the Lincoln County Forest Plan Revision process and noted this plan was tracking approximately two years behind the Cibola Forest Plan Revision.

b. Cibola National Forest

Ms. Taylor reported the deadline for submission of comments regarding the Draft Cibola Forest Plan Revision was August 31, 2016. Ms. Taylor provided copy of the comments prepared by the Land and Natural Resource Advisory Committee (LANRAC) which were subsequently submitted to the Cibola. Ms. Taylor stated next steps included the codification and technical review of all comments received by a special resource group. Ms. Taylor reported on her attendance at a meeting to review the comments, determine acceptability, and identify the appropriate use of comments accepted. Ms. Taylor reminded the Cibola National Forest had final authority for decisions on proposed changes to the plan.

c. Community Forester

Rick Merrick presented a recently developed video describing the effectiveness of the Collaborative Forest Restoration Program. Mr. Merrick's video used the current CFRP project in

the Ruidoso area as an example of fire reduction benefits and also highlighting the advantages of the multi-agency partnerships. Mr. Merrick stated additional CFRP funds were available to continue improvements in the identified area.

Mr. Merrick stated an informative presentation was given by the Bureau of Land Management on activities associated with the Snowy River Cave system during the recent Eastern New Mexico University Speaker Series.

Mr. Merrick reported working with the South Central Mountain Economic Group to submit a final strategy plan to the US Department of Agriculture for approval.

Mr. Merrick also reported South Central Mountain Resource and Conservation District anticipated delivery of an air curtain incinerator in October and anticipated some associated training for operation.

d. Upper Hondo Soil & Water Conservation District

Ms. Taylor stated Laura Johnson, Program Coordinator for the Upper Hondo was unable to attend but provided copy of the agenda for the meeting held September 13, 2016.

Jackie Powell, Board Member of the Upper Hondo expressed appreciation for the collaboration with Lincoln County on various thinning projects and invasive weed management. Ms. Powell discussed an Upper Hondo project designed to increase the number of individual catchment tanks used by homeowners.

Ms. Powell discussed a Gross Receipts Tax imposed by the City of Alamogordo for the City owned property in the Bonito area. Ms. Powell noted the City of Alamogordo would now collect tax on activities and improvements associated with the repair and refurbishment of Bonito Lake while utilizing roads maintained by Lincoln County.

10. NMAC Voluntary Benefits Program – Susan Mayes, Executive Services Manager

Ms. Taylor reminded the New Mexico Association of Counties (NMAC) in conjunction with the Daniels Insurance Group issued a Request for Proposal to provide a suite of employee benefits not currently offered to employees through State contract. Ms. Taylor informed the RFP was awarded to Sun Life Financial and NMAC was seeking approval from Lincoln County to offer employees the Sun Life Employee Voluntary Benefits Program.

Susan Mayes, NMAC Executive Services Manager discussed problems associated with the initial roll out of the program two years ago which resulted in a reissuance and subsequent award of the RFP to Sun Life. Ms. Mayes informed the original requirement for counties to terminate contracts with individual providers of these optional benefits was removed and counties were able to continue those contracts should employees choose to stay with those providers.

Ms. Mayes discussed the payroll deduction option, portability of benefits, advantages to group rates, and the benefit of a percentage of the associated commissions being allocated to NMAC.

Billie Jo Guevara, Human Resources and Administrative Assistant spoke in favor of the program and expressed belief it presented a good opportunity for employees to seek additional benefits.

13. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Commissioner Draper discussed recent youth fatalities associated with drug use and informed a public outreach meeting was scheduled for September 28, 2016 at the Ruidoso High School. Commissioner Draper stated law enforcement, school personnel, and community leaders would meet with parents to discuss proactive measures.

Commissioner Stewart reported on a recent Military Coordination Joint Land Use Study (JLUS) meeting and noted White Sands Missile Range was seeking federal funding to resurvey the boundary fence line in 2018 with a specific effort to identify archeological issues. Mr. Stewart reported he discussed Lincoln County's request for a flashing light in Carrizozo to notify traffic of possible road closures and stated the White Sands Missile Range point of contact had agreed to research the request. Commissioner Stewart stated the Lincoln National Forest committee member reported the National Science Foundation planned to abandon the Sunspot Observatory but stated New Mexico State University had expressed an interest in the site. Commissioner Stewart stated military representatives reported the Sun Zia Development Plan was on track for completion in January of 2018. Commissioner Stewart reported on various other actions related

to the area including the Lincoln National Forest's Environmental Assessment for high altitude helicopter training and the US Air Force's consideration of movement of two F-16's squadrons from Utah to one of four bases one of which was Holloman Air Force Base.

Commissioner Willard discussed his recent visit to Gander, Newfoundland which was the main diversion site for airplanes during the September 11, 2001 crisis. Commissioner Willard commented on the assistance provided by the estimated 20,000 residents to these airline passengers and also the support offered after the crash of a chartered flight carrying the Army 101st Airborne Division. Commissioner Willard commented on the extraordinary loyalty of the residents to the United States.

Rhonda Burrows, County Clerk reminded the last day to register to vote for the 2016 General Election was October 11, 2016. Ms. Burrows reminded online voter registration was available through the New Mexico Secretary of State's website. Ms. Burrows also presented a list of Handy Tips for Voters to prepare for the upcoming election and discussed options to reduce check in time at vote sites. Ms. Burrows also noted there were various voter information guides available online for voters to review proposed constitutional amendments and bond questions.

Ms. Burrows discussed the recent Alto Lakes Zoning District Election and the associated voter turnout and costs. Ms. Burrows informed the County Clerk's Affiliate was working on and planned to support a bill titled the "Local Elections Act" which would consolidate local elections on one day in November in the odd year. Ms. Burrows explained the proposal was to combine local, non-partisan elections to provide a date sure for voters to cast a ballot for multiple district elections on one ballot.

Ms. Taylor informed she had invited representatives from the Sun Zia Project to attend a meeting with the Board of County Commissioners and they planned to attend next month.

Jackie Powell, landowner in the Hondo Valley and former County Commissioner thanked the County Commissioners and representatives from the Village of Ruidoso for being present to discuss water issues. Ms. Powell discussed the population growth in the Ruidoso area over time and noted water availability had not increased. Ms. Powell stated sections of the Rio Ruidoso were dry approximately six months out of the year and discussed the effect of transfers. Ms. Powell suggested educational tours of the watershed and particularly discussed the seven communities located below Ruidoso on the Rio Ruidoso. Ms. Powell expressed belief there was opportunity to work collaboratively at the local level to solve water issues.

Chair Stone reported on his attendance at the three day meeting to discuss the Cibola Land Use Plan revisions where he participated in two groups discussing wildlife and range management to categorize comments received on the Cibola Forest Plan revision. Chair Stone stated he had learned much about the process and believed this knowledge would prove useful during the Lincoln National Forest Plan revision.

Chair Stone also expressed appreciation for the positive attitude exemplified by his fellow Commissioners, the County Manager, other Elected Officials and employees.

10. NMAC Voluntary Benefits Program – Susan Mayes, Executive Services Manager (Continued)

Commissioner Willard expressed concerns about the stability of the NMAC program since this was the second service provider in two years.

Ms. Mayes discussed the problems with Trust Mark, the previous carrier and noted one primary difference was Trust Mark representatives operated on commission were as Sun Life representatives were salaried professionals. Ms. Mayes commented on the Sun Life Program's flexibility which allows counties to enroll even a small number of employees for any one benefit.

Rhonda Burrows, speaking as the Lincoln County NMAC Board Member questioned the number of counties currently enrolled.

Ms. Mayes reported there were currently six counties enrolled and these counties had expressed much greater satisfaction with Sun Life services.

Ms. Burrows discussed the process by NMAC to develop the voluntary employee benefit program based on requests received from the counties. Ms. Burrows noted a portion of commissions from plan enrollment would return to NMAC to offset services and expressed support for the program.

Motion: Grant Sun Life the opportunity to conduct an open enrollment in Lincoln County, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.
Vote: Motion carried by unanimous vote (summary: Yes = 5).
Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

9. State Engineer Tom Blaine: Water Issues

Ms. Taylor reminded the Board of Commissioners approved the filing of a protest for Application No. H-381-A and H-381-B filed in the Office of the State Engineer based on information contained in the notice which described the application as a request for additional points of diversion and an expansion of place of use. Ms. Taylor stated subsequently Lincoln County learned the notice was incorrect and the application was for continuance of a temporary permit with no additional points of diversion, no expansion of use, and no changes for purpose of use. Based on this information the Board of Commissioners reconsidered the prior action and choose not to file a protest. Ms. Taylor state the application did raise concerns regarding the effects of water right transfers and therefore an invitation was issued to the State Engineer to attend the Lincoln County Commission Meeting.

Tom Blaine, New Mexico State Engineer and Andy Morley, District II Supervisor introduced themselves and stated they were in attendance to discuss water issues.

Mr. Blaine explained the Office of the State Engineer (OSE) was statutorily required to review four principle points of consideration prior to approval of any water rights applications. Mr. Blaine stated the four points were as follows: is water available; will the approval of the application result in impairment; is the application contrary to the public welfare of the State of New Mexico; and is the application contrary to conservation of water for the State of New Mexico.

Mr. Blaine acknowledged when water rights were moved on a stream system there was always an opportunity to create an impact on downstream users. Mr. Blaine stated some water lease agreements previously approved to move water upstream provided the opportunity for the Village of Ruidoso to access water which may not have been available downstream at the "move from" location. Mr. Blaine stated the condition of approval for this type of application required the monitoring of certain "flow requirements" at downstream locations to ensure if water was not available downstream locations, water could not be moved upstream. Mr. Blaine stated there was "much consideration and much deliberation" given to each application submitted to OES. Mr. Blaine stated it was incumbent on the OES to ensure impairment does not occur.

Commissioner Stewart questioned if the Rio Ruidoso stream bed east of Ruidoso towards Roswell was dry how the OES could approve any transfer of water rights to an "upstream" location.

Mr. Blaine stated the OES would review the historical flow at the named location, and if water was historically present the application could receive approval. Mr. Blaine commented the OES was unable to analyze "minute by minute" conditions to guarantee a system was in balance at all times.

Commissioner Stewart commented on the "dire conditions" along the Rio Ruidoso and suggested it was not logical to continue to approve applications for transfer.

Mr. Blaine stated the OES maintained and gathered data from a gauge referred to as the "Hollywood Gauge" and stated there had to be a minimum amount flow requirement at that gauge. Mr. Blaine stated if the flow at the gauge was restricted OES would apply "flow condition" requirements to the application approval which would limit diversion to times when water was available.

Commissioner Stewart questioned the implications of declaring a basin as a "closed basin".

Mr. Blaine stated the term "closed basin" typically refers to the restriction of ground water appropriations from the basin as surface water was fully appropriated in the State of New Mexico.

Commissioner Allen questioned when OES refers to historical flow data how far back is the data considered.

Mr. Blaine expressed belief the historical data from the Hollywood Gauge encompassed several decades.

Commissioner Allen commented on the factors of population growth in combination with a decline in snowfall and rainfall in the basin. Commissioner Allen questioned if the OES could reevaluate the use of historical data.

Mr. Blaine stated when applications were approved with "flow conditions" those conditions would require surface flow at the designated points or the applicant could not transfer water until flow was present. Mr. Blaine stated these imposed conditions were utilized to deal with current water conditions. Mr. Blaine discussed "gaining" and "losing" areas of any stream system which result in areas where the stream bed is dry. Mr. Blaine stated while the OES endeavors to manage stream systems to limit dry areas there were in fact stretches of the Rio Ruidoso which had historically been dry.

Mr. Blaine discussed the effect of municipal growth on area water systems and encouraged the Board of County Commissioners to work with municipalities and other entities in the area to develop a regional water plan to address municipal growth while protecting cultural use.

Chair Stone commented on his past experience as a member of the Water Trust Board and on the current Lincoln National Forest Plan Revisions particularly regarding the authority of the Office of the State Engineer. Chair Stone expressed belief any permitted movement of water creates an impairment of some type. Chair Stone stated belief the OES held the authority and the responsibility to change the planning perspective from one reliant on historical data to the use of current data with an emphasis on more accountability.

Mr. Blaine stated the OES could issue a metering order which would require every acequia to meter water use and availability but the cost was prohibitive. Mr. Blaine stated metering was likely the best way to manage water in a short supply years and noted all municipal and industrial use of water was currently metered.

Commissioner Stewart expressed concern about any proposal to have acequias metered noting acequia water rights were "senior" water right holders. Commissioner Stewart questioned what would occur if acequias were metered and the senior water right holders were not receiving any water.

Mr. Blaine stated in that event the OES could issue a "priority call". Mr. Blaine reminded the NM State Constitution states the "older right is the better right". Mr. Blaine stated historically priority calls had not been used and in past times of drought the acequias had historically worked cooperatively to distribute available water.

Commissioner Draper discussed the impact of water on economic development and questioned if the Office of the State Engineer had reviewed the hydrology study completed by the US Geological Survey (USGS) of the area watershed which was largely funded by Lincoln County.

Mr. Blaine stated he had not had an opportunity to review the report.

Commissioner Draper expressed additional concerns about the Mescalero Apache Tribe's interest in usage of water from the upper areas of the watershed; the current status and proposed use of the Bonito Lake water; the appropriate use of available water; and options to conserve and use water.

Commissioner Willard, speaking as a landowner and acequia member in the Hondo Valley, stated there was not an acequia in the Hondo Valley which received the same amount of water they had thirty years ago. Commissioner Willard noted prior Commissioner, Jackie Powell had described the river flow as torrential subject to snow and rain conditions. Commissioner Willard expressed belief any metering of acequias was a waste of time due to the lack of water to measure. Commissioner Willard acknowledged the needs of the Village of Ruidoso but reminded acequias were senior water right holders.

Mr. Blaine stated there was no statutorily defined "higher and best use" of water which the OSE could apply and therefore it was incumbent on the entities in the area to develop economic strategies to encourage the "highest and best use" of water in the area. Mr. Blaine stated the NM State Constitution states "beneficial use is the basis, the measure, and the limit of any water right". Mr. Blaine further stated the courts had never identified the specific definition of "beneficial use" and therefore it was not the responsibility of the State Engineer to determine "the highest and best use".

Ms. Taylor questioned if applications for the continuation of a temporary permit were subject to the same scrutiny as new applications for transfers or increasing points of diversion.

Mr. Blaine confirmed these applications were subject to the same scrutiny and also confirmed past actions and reviews of applications were public records.

Chair Stone expressed appreciation for Mr. Blaine agreeing to attend the County Commission Meeting to discuss these concerns.

Mr. Blaine committed to having a representative from OSE at future Lincoln County Commission Meetings for the next year to address questions and concerns. Mr. Blaine commented on the situation the Village of Ruidoso faced regarding water rights and related issues when he took office. Mr. Blaine stated staff from the OSE had worked weekly in the past to shepherd Village staff through the process of understanding water right issues and there was tremendous progress working towards a permanent solution rather than a reliance on temporary solutions. Mr. Blaine stated he hoped to develop that same working relationship with Lincoln County.

Chair Stone expressed belief transparency was the most important part of any relationship.

25. Discussion Regarding Capitan Municipal Schools Interest in Obtaining Lincoln County Property (Road Department Adjacent to Capitan Schools)

Ms. Taylor reminded in November of 2011 Shirley Crawford, Superintendent of Capitan Municipal Schools at the time requested Lincoln County grant the school district an irrevocable right of first refusal should Lincoln County decide to move the County Road Yard from its present location next to the school. Ms. Taylor presented a copy of the Notice of Right of First Refusal approved by the Lincoln County Commission on November 15, 2011. Ms. Taylor discussed several options considered for the relocation of the County Road Yard including a potential land swap for property on Highway 48; obtaining land from the State of New Mexico on Highway 220; and or relocation of the Road Yard to the County owned fairgrounds property.

Sean Wooten, Superintendent of the Capitan Municipal schools discussed recent improvements to the Capitan School campus including the construction of a new two story building to house middle and high school student classrooms. Mr. Wooten commented on recent discussions regarding movement of the County Road Yard and stated should the County vacate this parcel the Capitan Schools would like to acquire this parcel in order to continue to expand the campus.

Alan Morel, County Attorney reminded while the Right of First Refusal Agreement provides the Capitan Schools the first right to purchase the property there was no requirement for Lincoln County to sell or dispose of the property. Attorney Morel expressed belief the larger issue was where to relocate the Road Yard and the cost of relocation and reconstruction.

Ms. Taylor reminded the project was included on the Lincoln County Infrastructure Capital Improvement Plan but was not currently listed as a priority for capital outlay funding. Ms. Taylor stated staff had not moved forward with additional research of options pending direction from the Board of County Commissioners.

There was general discussion of potential relocation sites including the associated cost of improving the low water crossing at the County owned Lincoln County Fairgrounds property.

Commissioner Willard suggested Lincoln County obtain an appraisal of the current Road Department property to move the process forward.

There was general consensus to obtain an appraisal of the current Road Yard property.

11. Obligation of Capital Outlay Funds for Design of Detention Center Expansion

Ms. Taylor informed the expansion of the Detention Center was the number two priority on the Lincoln County Infrastructure Capital Improvement Plan (ICIP). Ms. Taylor further reminded Lincoln County had received a capital outlay appropriation of \$163,000 for the project. Ms. Taylor noted this award was insufficient to complete any particular phase of the construction project. Ms. Taylor suggested the County move forward to obligate at least a portion of the funds to minimize the risk of losing these capital outlay funds.

Ms. Taylor stated the company which was contracted to run the Detention Center had identified the expansion of the Medical Suite as the main priority with an estimated cost of \$560,000. Ms. Taylor reminded NCA Architects previously presented a preliminary phased design for the expansion and suggested the County obligate a portion of the capital outlay funds by entering into an agreement for architectural services.

There was general discussion regarding the benefits of engaging the architect to do a full design of the expansion versus directing the architect to design only the medical suite.

Motion: Direct the Manager and Attorney to enter into an agreement with NCA Architects to design the medical suite phase of the Detention Center expansion, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

12. Obligation of Arts in Public Places (AIPP) Funds

Ms. Taylor informed in 1986 the State Legislature passed and the Governor signed into law the Art in Public Places Act. Ms. Taylor explained this act required a portion of any capital outlay appropriation be set aside for the acquisition or commissioning of works of art for use or display in or around public buildings. Ms. Taylor stated New Mexico State Statute specified the amount dedicated for the acquisition of works of art as an amount equal to the lesser of one percent or \$200,000 for appropriations exceeding \$100,000. Ms. Taylor stated based on the capital appropriation of \$245,000 for the Carrizozo Senior Center, Lincoln County had set aside \$2,450 for the acquisition of art.

Ms. Taylor presented a photograph of a 30" by 40" aluminum photo of the statute of Abraham Lincoln at the Lincoln Memorial in Washington, D.C. for consideration. Ms. Taylor stated any art approved by the Commissioners would be submitted to the New Mexico Department of Cultural Affairs New Mexico Arts Division for additional review and approval prior to purchase.

Motion: Direct the Manager to apply the Arts in Public Places funding to purchase of the tintype, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Chair Stone questioned if art from local western artists was available for consideration.

Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).

Yes: Chair Stone Commissioner Allen, Commissioner Draper, Commissioner Willard.

No: Commissioner Stewart.

26. Additional Office Space Request from the Office of the District Attorney

John Sugg, recently appointed District Attorney for the 12th Judicial District stated since his appointment he had recruited four prosecutors who would live and work in Lincoln County to better serve this area. Mr. Sugg discussed the previous remodel and relocation of the District Attorney's office space in the Court Annex building from the top floor to the bottom floor. Mr. Sugg stated the recruitment of additional attorney's to work in Lincoln County resulted in a shortage of office space on the first floor and requested two additional offices on the second floor.

Ms. Taylor reported a review of the site was conducted and Facility Build, the company who completed the initial remodel, provided a plan to divide the west end of the second floor to provide a secure entrance for access to the office space identified as available. Ms. Taylor stated the estimated cost to install needed security measures on the second floor and remove certain walls on the first floor was \$27,000.

Motion: Approve \$28,000 plus GRT to accommodate the request, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

Punkin Schlarb, Finance Director requested an assurance of access to the telephone and computer equipment on both floors.

District Attorney Sugg assured the District Attorney's office would provide access to the equipment.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the meeting at 11:29 AM.

23. 11:30 a.m.: Lunch/Inspection of the Lincoln County Detention Center

Chair Stone reconvened the meeting at 12:59 PM.

Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard and Nita Taylor, County Manager attended the inspection of the Lincoln County Detention Center.

14. Approval of Memorandum(s) of Understanding Between Lincoln County and Otero County Electric Coop for Co-location on Capitan Mountain and Carrizo Mountain Tower Sites

Ms. Taylor informed Joe Kenmore, Director of the Office of Emergency Services (OES) met with a representative from the Otero County Electric Coop and identified two tower sites where both entities would benefit from improvements to communication equipment. Ms. Taylor stated the sites were located on Capitan Mountain and Carrizo Mountain. Ms. Taylor stated as the benefits to Lincoln County were equal to or greater than the benefits to Otero County Electric, the Memorandums of Understanding were not in violation of the anti-donation clause of the New Mexico Constitution.

Attorney Morel stated the principal difference between the two agreements were provisions in the Carrizo agreement for the installation of new solar panels and controllers by Otero County Electric and provisions in the Capitan agreement for installation of a electric meter and payment for electric service by Otero County Electric. Mr. Morel stated these two towers were Lincoln County towers but suggested consideration of similar agreements to co-locate equipment on Otero County Electric towers to improve communications.

Attorney Morel concurred with Ms. Taylor the benefits to Lincoln County were equal to or exceeded the benefit to Otero County Electric.

Motion: Approve the Memorandums of Understanding between Lincoln County and Otero County Electric Coop, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Chair Stone relinquished the Chair to Vice Chair Draper and recused himself from the discussion as a current member of the Otero County Electric Coop Board of Directors.

Commissioner Willard commented on the vehicle repeater which the Sheriff's Office was testing to improve communication and questioned if this was beneficial.

Joe Kenmore, Director of OES stated communications were improved by the hand held devices but due to the topical terrain of the Lincoln County additional tower site improvements would enhance communications and provide redundancy.

Commissioner Stewart questioned the prior recommendation by Attorney Morel to adopt a tower lease agreement for these sites.

Attorney Morel explained these MOU's were developed to include the language from Lincoln County's standard tower lease agreement but was more specific to this circumstance.

Vote: Motion passed (summary: Yes = 4, No = 0, Abstain = 1).

Yes: Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.
Abstain: Chair Stone.

15. Solid Waste Collection Services

a. Liens Filed on All Property Owners Listed on Non-Payment List

Ms. Taylor reported direct mail letters were sent to all owners in arrears for solid waste payments on September 14, 2016. Ms. Taylor stated additional identical Notices of Intent to Lien Properties for Non-Payment were published in the Lincoln County News on September 15, 2016 and the Ruidoso News on September 16, 2016. Ms. Taylor stated these actions generated additional payments and the number of delinquent accounts was down from 237 to 197. Ms. Taylor stated Attorney Morel's staff had trained County staff to create liens but the original filing date of September 26, 2016 was extended to fine tune the process. Ms. Taylor stated the Manager's office was working with the Assessor and the Clerk on the process.

b. Notification to Fox Run Residents / GSWA / Sun Valley Water & Sanitation District of Provisioning of Billing of Solid Waste Collection Services by County

Ms. Taylor stated there were two lawfully established water and sanitation districts in Lincoln County including the Sun Valley Water and Sanitation District. Ms. Taylor reminded when Lincoln

County assumed the provision of solid waste services for residents in the unincorporated areas of the County, those residents served by a lawfully established Water and Sanitation District were exempt from collection services and billing. Ms. Taylor stated in December of 2015 the Sun Valley Water and Sanitation District provided a list of 215 "residents and homeowners" for whom the District had contracted with Greentree Solid Waste Authority for services.

Ms. Taylor stated Lincoln County had since identified residents of the Fox Run Subdivision who were mistakenly included in the Sun Valley list. Ms. Taylor clarified Lincoln County Ordinance 2016-01 required all residents in the unincorporated areas of the County, who are not served by a lawfully established Water and Sanitation District, receive services from Lincoln County. Ms. Taylor stated the County had billed these residents beginning in January 2015 until Sun Valley obtained services from Greentree Solid Waste Authority (GSWA) in January 2016. Ms. Taylor stated these residents had paid GSWA and therefore were in arrears \$231.16 as of the Lincoln County fourth quarter billing for 2016. Ms. Taylor stated the residents had received services from GSWA and therefore suggested sending official notification to the Fox Run residents of the violation; consider writing off the fees in arrears since the residents received services from and paid GSWA; and begin billing the residents for County service as of January 1, 2017.

Commissioner Allen questioned if the residents of Fox Run had received duplicate billing from GSWA and Lincoln County.

Ms. Taylor confirmed the residents were billed by both entities and it had taken some time to research the source of the double billing problem. Ms. Taylor stated there were more than 30 lots in the Fox Run Subdivision and estimated there were currently 10 to 15 residents.

Motion: Notify Fox Run Subdivision residents of the violation; begin billing Fox Run residents for County services beginning January 1, 2017; and write off the 2016 billing for Fox Run residents 2016; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen. **Vote:** Motion carried by unanimous vote (summary: Yes = 5). **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

c. Compactor and Dumpster Status

Ms. Taylor anticipated the delivery of the 72 new dumpsters ordered by late October. Ms. Taylor stated Sierra Contracting would determine which dumpsters needed replacement and if there were sites which needed additional dumpsters. Ms. Taylor stated the County could consider utilizing the remaining new dumpsters for provision of a new "personal dumpster" service as previously discussed. Ms. Taylor stated the new compactor site on Cora Dutton Road would be operational in mid-October and plans were moving forward to develop a compactor site on Eagle Creek Court.

d. Sierra Contracting, LLC Challenges

Paul Wetzel, General Manager of Sierra Contracting discussed the recent acquisition of an adequate number of employees, actions to replace and service dumpsters, and the identification of areas needing additional dumpsters. Mr. Wetzel reported the contractor was also preparing for winter weather and had acquired a grapple truck for slash pick up and dumpster relocation as requested.

Commissioner Draper questioned if the County had identified a potential site for a compactor in Alpine Village.

Curt Temple, Interim Road Superintendent stated he met with a representative from PNM to review various sites and options for the provision of electrical service. Mr. Temple discussed the options of purchasing property, resurveying the current County right of way, and other site considerations.

Chair Stone questioned Mr. Wetzel regarding the possibility of utilizing some of the new dumpsters for the provision of "private dumpsters".

Mr. Wetzel stated Sierra Contracting identified 42 dumpsters which needed replacement and were recommending distributing 8 more to existing or new sites. Mr. Wetzel stated Sierra Contracting planned to repair the damaged dumpsters for future use.

Ms. Taylor stated she would present a proposal for development of a "personal dumpster" service and options for pricing in the near future. Ms. Taylor stated any additions or revision to the Solid

Waste Ordinance would require a formal notice of public hearing and suggested setting a public hearing for the November meeting.

There was consensus to develop draft revisions to the Solid Waste Ordinance for review at the October meeting.

e. Potential Credit to Customers for Payment and or Overpayment to GSWA

Ms. Taylor reported during Greentree Solid Waste Authority's September 15, 2016 meeting the GSWA Board directed their Operational Supervisor to work with Lincoln County Manager, Finance Director and Solid Waste Billing Clerk to develop a process to resolve the issue of "credit" due to those residents who received duplicate billings for the first quarter of 2015.

Ms. Taylor stated those residents who paid GSWA for the period in question had paid over and above the Lincoln County approved rate and were therefore entitled to a credit or refund. Ms. Taylor estimated the total amount of overpayments subject to refund was \$33,000 to \$35,000.

Commissioner Stewart opined it was the duty of GSWA to refund customers for any overpayment.

Ms. Taylor concurred but said the question was whether it was best for GSWA to pay the County a lump sum payment for overpayments and have the County credit those accounts or to require GSWA to issue individual refunds.

Joe Lewandowski, Operational Consultant stated GSWA was not disputing the need for a refund but wanted to work with Lincoln County to try to find the best resolution to the question.

There was consensus to direct the County Manager and the County Attorney to work with GSWA and present options for approval at the next meeting.

16. Award of Invitation to Bid/RFP's:

b. 16-17-004 Pick-Up Slash Piles for Lincoln County

Ms. Taylor informed Lincoln County advertised and posted notice on the website the issuance of invitation for bids for the pickup of slash piles in Lincoln County. Ms. Taylor detailed the four bids received as follows:

Sierra Contracting	\$ 7.99 per cubic yard
GSWA	9.00 per cubic yard
B and B Ready Mix	18.00
Garrison Tree Service	25.00

Commissioner Draper questioned what action would the County take to deal with ongoing slash pick up.

Ms. Taylor discussed how staff from Rural Addressing estimated the cubic yardage for this bid and noted not all slash piles throughout the County were identified nor included in this RFP. Ms. Taylor stated the Board of County Commissioners would need to determine whether Lincoln County would provide ongoing slash pick up or inform owners they were responsible for their own slash disposal.

Commissioner Stewart recommended Lincoln County pick up of these currently identified slash piles and notify property owners any dumping of slash in the County right of way was illegal.

Commissioner Stewart also stated Ranches of Sonterra had slash piles which required pick up and suggested it was only appropriate for the County to pick those up if it was doing so in other areas.

Ms. Taylor agreed and stated this could be accomplished.

Commissioner Draper suggested the County treat this particular pick up as a "test run" and consider a once yearly pick up with a distribution of costs to the property owner.

Joe Lewandowski, Operational Consultant for Greentree Solid Waste Authority informed the proposal from GSWA was not a response to the bid but rather a standing offer of assistance.

Commissioner Willard suggested billing all customers an extra \$2.00 per month and providing an on request service by grappling truck. Commissioner Willard expressed belief it was dangerous to allow slash accumulation and only provide a service once or twice a year.

Chair Stone expressed belief as many as two thirds of billed residents might not require slash pick up and would therefore subsidize the others.

There was a general discussion regarding this one time slash pick up and potential options for future slash disposal.

Motion: Award IFB 16-17-004 to Sierra Contracting, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

Chair Stone questioned if the current County Ordinance regarding the illegal placement of slash in County rights of way was sufficient for enforcement.

Attorney Morel stated Lincoln County adopted Ordinance 2016-02 on August 17, 2016 to clarify ambiguities which had created enforcement problems. Attorney Morel stated the new ordinance clearly define "unacceptable waste" which included slash but acknowledged there was still an associated enforcement issue. Attorney Morel noted the Ordinance only provide authority for enforcement on County owned property not private property.

Vote: Motion failed (summary: Yes = 2, No = 3, Abstain = 0).

Yes: Commissioner Draper, Commissioner Willard.

No: Chair Stone, Commissioner Stewart, Commissioner Allen.

Motion: Award IFB 16-17-004 to Sierra Contracting with stipulation for an education process to inform the public this was a onetime only pick up and any further dumping of slash in the County right of way would be subject to prosecution, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Commissioner Stewart, Commissioner Allen, Commissioner Draper.

No: Chair Stone, Commissioner Willard.

a. 16-17-003 On-Call Engineering, Surveying and Environmental Services

Ms. Taylor stated the bids for RFP 16-17-003 were opened on September 13, 2016. Ms. Taylor stated two proposals were received and an evaluation committee scored the bids based on experience and bid proposals.

Dennis Engineering Co.	300 points
Pettigrew and Associates	280 points

Commissioner Willard questioned the location of each firm and the associated mileage reimbursement rate.

Chair Stone questioned the total cost and or billable rate.

Curt Temple, Interim Road Superintendent stated prices were reviewed in addition to services provided. Mr. Temple stated the costs per hour varied based on services provided and employee duties.

Ms. Taylor stated Lincoln County did not often need for an on call surveyor or engineer.

Motion: Award RFP 16-17-003 for On Call Engineering, Surveying and Environmental Services to Dennis Engineering, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

17. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

Mr. Annala discussed the recent increase in requests for Indigent Burial Services and noted he had two pending claims which would necessitate a mid-year budget adjustment.

Commissioner Willard questioned why one Indigent Burial provider was reimbursed \$600 and a different provider received \$800.

Commissioner Stewart expressed belief the increased amount included \$200 for opening and closing of a grave site versus a simple cremation. Commissioner Stewart requested Mr. Annala research the question.

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 18 claims with 15 recommended for approval and 3 recommended for disapproval for a monthly authorization of \$24,847. Mr. Annala stated approval of the claims would result in a total approval of Safety Net Care Pool claims for Fiscal Year 2016-2017 to date of \$37,258 or a monthly average of \$12,419.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 6 claims with 6 claims recommended for approval and none for disapproval for a total payment this month of \$9,470.99. Mr. Annala stated approval of the claims would result in a total expenditure for Fiscal Year 2015-2016 to date of \$23,514 or a monthly average of \$7,838. Mr. Annala stated based on the current average he estimated expenditure of \$94,055 of the \$100,000 budget.

Motion: Approval and denial of the claims as indicated for the Safety Net Care Pool and Indigent Health Care as recommended, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT B: Copies of the Safety Net Care Pool and Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

18. Manager's Report

1. **Road Superintendent:** The County received ten applications for the Road Superintendent position. The Manager stated a process to develop interview questions, select an interview team; review the applications; schedule interviews; and select a final applicant would begin next week.
2. **Capital Outlay Appropriations:** Hubert Quintana from the Southeastern New Mexico Economic Development District advised Capital Outlay funding awarded in or prior to 2013 was in jeopardy of de-authorization by the NM Legislature. Mr. Quintana provided a copy of a letter issued by the Department of Finance and Administration notifying all authorizations prior to 2016 which not been encumbered were to be frozen. The Manager commented on current Capital Outlay projects and identified the White Oaks Fire Station as the only Lincoln County Capital Outlay project currently unencumbered in some fashion. The Manager suggested the obligation of these funds by contract for a basic design.

Joe Kenmore, Director of OES stated the request was initiated by a need for a three bay heated station for apparatus storage.

Commissioner Stewart suggested the County contract for a slab design to accommodate a prefabricated building based on recommendations from the manufacturer.

There was a general discussion regarding the advantages of utilizing funds available to design and construct a slab.

Motion: Allocate both of the White Oaks Fire Station Capital Outlay awards for the design and construction of a slab, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

3. **FEMA Mitigation Grant:** The Manager reported she and staff were working on the two FEMA sub-grants for the Lincoln County Wildfire Thinning Project and the associated Education and Outreach Project. The Manager stated obstacles were encountered related to moving the projects forward and receiving reimbursement for

funds spent. The Manager stated procurement procedure requirements by the Department of Homeland Security and Emergency Management were outside the procurement standards established by the State of New Mexico and the County of Lincoln. The Manager stated a meeting was scheduled with the Department's Cabinet Secretary to discuss these issues.

4. **New Mexico Association of Counties (NMAC):** The Manager reported NMAC was seeking applications from counties interested in hosting one of the conferences scheduled for June of 2018, 2019 and 2020. The Manager provided a copy of the NMAC Request for Proposal which detailed financial and staff commitments.

Commissioner Stewart discussed Lincoln County's past experience as a host county and suggested Lincoln County did not have the staff or financial resources to host this large of a meeting.

Commissioner Willard stated he had presented the opportunity for consideration to the Ruidoso Valley Chamber of Commerce. Commissioner Willard stated while the Chamber was initially interested they were deterred by the requirement for 15 to 30 employees to assist.

There was a general consensus the County was not currently interested in hosting this event.

5. **New Mexico Infrastructure Finance Conference:** The Manager stated the conference was scheduled for October 26 through 28, 2016 at the Ruidoso Convention Center. The Manager stated the conference was an excellent opportunity to learn about the multiple funding sources available to local governments and to learn of various solutions to common infrastructure problems facing municipalities and counties. The Manager stated plans to attend the conference.
6. **Miscellaneous Building Issues:** The metal building for the Hondo Fire Station was scheduled for delivery prior to month end. The funds for the building were obtained from a State Fire Marshall Grant. The next step was to decide whether to issue a request for bid, request for proposal, or to hire a CES contractor to complete the construction.

Carrizozo Senior Center construction was progressing according to the timeline for substantial completion. The Manager stated once the inspections were complete Senior Center staff would begin moving into the building and would then finalize plans for an Open House.

7. **Claunich-Pinto Soil and Water Conservation District** formally invited the Board of County Commissioners to attend a 75th Anniversary Celebration on November 10, 2016.
8. **Capitan Municipal Schools** was named a National PTA School of Excellence for 2016-2018. The award was in recognition of partnerships between schools and families which work to enrich the education experience and overall well-being for all students. Only three schools in New Mexico received this recognition with Capitan Elementary, Capitan Middle School, and Capitan High School being three of those honored. Capitan Schools issued an invitation to the Board of County Commissioners to celebrate this award on October 11, 2016.
9. **Departmental Updates:**

a) **Billie Jo Guevara, Administrative Assistant and Human Resources** stated notice was sent to all employees regarding the Open and Switch Insurance and Benefit enrollment period. Ms. Guevara stated she would attend a NMAC Human Resources Affiliate Meeting next week in Ruidoso.

b) **Curt Temple, Interim Road Superintendent** provided an update on Road Department activities including plans to seek acquisition of additional millings from the State for use in the Windmill Ranches Subdivision. Mr. Temple reported two Operator II positions were recently filled and he anticipated delivery of the new culvert jet rodder this week. Mr. Temple stated salt for winter road maintenance was delivered to the County owned property on Airport Road. Mr. Temple stated seven radios similar to those purchased by the Sheriff's Office were installed in Road Department vehicles to improve communication and safety. Mr. Temple discussed the \$20,000 provided via a Memorandum of Understanding (MOU) with the Cibola National Forest to purchase material and offset employee costs associated with maintenance of US Forest Service roads in the District in Lincoln County. Mr. Temple suggested Lincoln County seek a similar MOU with the Lincoln National Forest.

c) **Punkin Schlarb, Finance Director** informed Toni Foligno, Inventory Assets Clerk had completed the Certified Public Procurement Officer training and continued to refine the inventory prior to the audit.

e) Joe Kenmore, Director Office of Emergency Services reported on a cattle truck roll over on Highway 70 near Chaves County. Mr. Kenmore stated this was the third such accident involving a cattle truck in less than 12 months. Mr. Kenmore reported communications work was progressing and commented on the new repeaters.

f) Samantha Mendez, Interim Planning Director informed Rural Addressing had posted 63 new address placards and assigned 8 new addresses for new construction in the County. Ms. Mendez stated work continued on addressing for 911 compliance to include the creation and installation of 48 street signs. Ms. Mendez stated Rural Addressing also delivered four poly carts to solid waste customers. Ms. Mendez stated she recently attended the New Mexico League of Zoning Conference where she learned of a statutory limitation of four years for liens. Ms. Mendez stated she also recently tested to receive certification as a Flood Plain Manager.

19. Lincoln County Medical Center Update

Ms. Taylor reported the New Mexico Taxation and Revenue Department (TRD) had conducted a Technical Appraisal Review of the Fair Market Rent Value Appraisal obtained in conjunction with the lease agreement negotiations with Presbyterian for the Lincoln County Medical Center Complex. Ms. Taylor stated the Technical Appraisal Review confirmed the report as credible and in compliance with applicable requirements and standards.

Ms. Taylor stated a Letter to the Editor coauthored by herself, Chair Stone, LCMC Administrator, and LCMC Board Chair was submitted to local newspapers discussing the plans for building a new hospital and the associated bond question. Ms. Taylor also reported Research and Polling, Inc. conducted a survey to determine opinion regarding the proposed new hospital. Ms. Taylor stated the survey indicated 45% of those polled were in favor of building the hospital, 27% were opposed, and 28% were undecided. Ms. Taylor stated Commissioner Allen and the LCMC Administrator met with the Creative Aging Advisory Committee to discuss this topic and a Town Hall Meeting was scheduled at the Ruidoso Convention Center on October 5, 2016.

20. Requirements of DFA -- Local Government Division

- a. Acknowledgment of DFA approval of Lincoln County FY2017 Budget
- b. FY 2016-17 County Requirements to Manage Budget throughout Fiscal Year

Ms. Taylor provided copy of the Department of Finance and Administration's (DFA) approval of the Fiscal Year 2016-2017 Final Budget. Ms. Taylor reminded of the statutory requirement for governing bodies to acknowledge receipt of the approval letter and provided a list of requirements for managing approved budgets.

Punkin Schlarb, Finance Director reported DFA had increased local government accounting responsibilities and requirements for managing budgets. Ms. Schlarb pointed out these requirements would necessitate increased transfers and the subsequent adoption of budget adjustments by resolution.

Motion: Acknowledge receipt of the Department of Finance and Administration's approval of the Fiscal Year 2016-2017 Final Budget and receipt of DFA's Local Government Division budget requirements, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT C: Copy of the Fiscal Year 2016-2017 Final budget is attached hereto in reference thereto made a part hereof.

21. Budget Adjustment by Resolution 2016-12

Ms. Taylor presented the Resolution to amend the budget to reflect changes in various revenue, transfer, and expense line items occurring after final budget approval.

Motion: Adopt Resolution 2016-12, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT D: Copy of Resolution 2016-12 is attached hereto in reference thereto made a part hereof.

22. Approval of 2015-2016 Prior Year CES Invoices

Ms. Taylor presented Invoice 24-056597 and Invoice 24-056594 received from CES for professional services provided by Wilson and Associates for architectural services for the Carrizozo Senior Center. Ms. Taylor stated the invoices were received after the end of Fiscal Year 2015-2016 due to a process problem between CES and Wilson and Associates.

Motion: Approve the invoices for payment, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

Commissioner Willard questioned if the services invoiced were associated with the previously discussed problems with the architectural specifications.

Ms. Taylor stated these invoices were not for services related to those problems.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

24. Donation of Surplus Item to Carrizozo Municipal Schools by Resolution 2016-13

Toni Foligno, Inventory Assets Clerk presented a list of surplus items currently stored in the warehouse pending disposal. Ms. Foligno requested approval of the Resolution to donate the listed items directly to the Carrizozo Municipal Schools and to notify the Department of Finance of the transfer.

Motion: Adopt Resolution 2016-13, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT E: Copy of Resolution 2016 - 13 is attached hereto in reference thereto made a part hereof.

27. Proclamations Honoring Two Long Term Lincoln County Residents

- a. Mary Helen (Jones) Skeen
- b. Norman L. Stevens Jr.

Commissioner Allen read the proclamations honoring Mary Skeen and Norman Stevens which acknowledged each individual's accomplishments and contributions to Lincoln County and the State of New Mexico

Motion: Approve the Proclamations honoring Mary Skeen and Norman Stevens Jr., **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

28. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance

Motion: Schedule a public hearing for the November Regular Meeting to consider establishing and setting rates for new solid waste services, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

29. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

Motion: To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

New or Updated Matters since last report *

1. **Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041.** Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.
2. **Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188** Appeal of the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed Oct. 23, 2014.
3. **A. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd, Et. Seq. D-1226-CV-2015-00112** Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Amended Complaint alleging Civil Rights Violation and Gender Based Discrimination filed on Oct. 13, 2015. Removed to Federal Court Nov. 12, 2015. Amended Complaint Appealing the Adverse Administrative Decision filed May 9, 2016 by Mr. Beauvais. Defendant's Notice of Filing Petition for Removal to Federal Court was filed May 19, 2016.
B. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd, Et Seq In the United States District Court For The District of New Mexico 2:15-cv-01029. Defendants County of Lincoln and Sheriff Robert Shepperd's Motion to Dismiss entered November 19, 2015. Order Dismissing Without Prejudice entered by Judge Stephan Vidmar April 19, 2016. Amended Complaint Civil Rights Violation filed May 6, 2016 by Mr. Beauvais. Settlement Conference scheduled for December 5, 2016 at 9:30 a.m. before Judge Lourdes A. Martinez.
4. ***Orlando Montes v. Pinnacle Propane, LLC, Allen Sultemeier, County of Lincoln, Lincoln County Fair Association, John Does; D-1226-CV-2016-00006 United States District Court for the District of New Mexico 2:16-cv-126.** Complaint for Wrongful Death, Statutory Tort, Violation of Constitutional Rights (Due Process), Negligence Per Se: Loss of Consortium, Negligent Infliction of Emotional Distress filed with the 12th Judicial District Court Jan. 19, 2016. Incident occurred at Lincoln County Fairgrounds July 2, 2015. County was served with Complaint on January 25, 2016. The case was removed to Federal Court Feb. 22, 2016. County of Lincoln's Answer to Complaint filed February 29, 2016. County's Response to Plaintiff's Motion for Partial Summary Judgment filed July 28, 2016. Estate of Montes and Orlando Montes' Response to County of Lincoln's Motion to Stay Discovery filed August 8, 2016. Settlement Conference scheduled for September 6, 2016 which did not produce a Settlement.
5. ***Walter Ray Seidel / Brian Ray Seidel v. Anthony Manfredi, Lincoln County Sheriff Department M-32-CV-2016-00036** Civil Complaint filed March 9, 2016 alleging personal and property damage. County of Lincoln's Answer to Civil Complaint filed March 29, 2016. Motion for Continuance of Trial granted by Judge Buddy Hall on August 1, 2016. Pre-Trial Hearing is scheduled for September 28, 2016 at Ruidoso Magistrate Court.
6. ***State of N.M. (NMDOT) v. Neria, et al D-1226-CV-2002-00129** Complaint for Condemnation filed June 10, 2002 by the New Mexico Department of Transportation requesting a Court Order granting NMDOT the fee simple title to certain real property as is necessary for "highway purposes." Order of Dismissal for Lack of Prosecution was entered July 5, 2005. NMDOT submitted a proposed Motion to Vacate Order of Dismissal and Reinstate Case on May 4, 2016 which was not opposed. Stipulated Judgement was filed August 1, 2016.
7. **Sean McGarry v. Board of County Commissioners, Lincoln County Sheriff's Department, Deputy Mike Wood, Deputy Jason Green, Deputy David Hightower in their individual capacities and as employees of the Lincoln County Sheriff's Department in the United States District Court for the District of New Mexico 2:16-cv-00483 GBW GJF** Complaint for damages resulting from the excessive use of force, false arrest, assault and battery, malicious prosecution and false imprisonment of Plaintiff by Defendants. Complaint filed May 26, 2016. Defendants Board of County Commissioners for Lincoln County and Lincoln County Sheriff's Department's Answer to Complaint for Civil Rights Violations filed August 11, 2016.
8. ***Deann S. Rauch, F.K/A. Deann S. Kessler v. The County of Lincoln, Keith Kessler, et. al. D 1226 CV 2016 00148** Complaint to Quiet Title filed July 13, 2016. County of Lincoln was served July 28, 2016. County of Lincoln's Disclaimer of Interest was filed August 25, 2016.

Lincoln County Ordinance Violations:
Alan P. Morel: 12th Judicial District Attorney's Office
Special Prosecutor

9. ***State of NM v. Widener, Randel M-30-MR-2016-00080** Violation of County Ordinance 2004-05: Unauthorized Structure in Lincoln. Non-Traffic citation was issued by LCSO Sgt. Warren on June 15, 2016 with a court appearance date before Judge Mickie Vega on or by June 30, 2016 at 10:00 a.m. An Entry of Appearance and Plea of Not Guilty was filed by Attorney Alexandra Bobbit on June 23, 2016. A Pre-Trial Hearing was scheduled for July 26, 2016 and was reset for August 30, 2016 at 9 a.m. on a Trailing Docket before Judge Vega and was vacated and reset for October 25, 2016. Settlement Conference took place August 24, 2016 and the case will be dismissed if Defendant complies with agreed-upon resolutions at Settlement Conference. Nolle Prosequi was filed with the Court on September 12, 2016. The case is dismissed.
10. ***State of NM v. Mendoza, Aimee M-30-MR-2016-00077** Violation of County Ordinance 2008-08: Animals running at large. Non-Traffic citation was issued by Sheriff's Sgt. Warren June 12, 2016 with a request for a Court-issued Summons to the Defendant. An Arraignment Hearing before Judge Mickie Vega was scheduled July 13, 2016 at which time the Defendant pled "Not Guilty." A Pre-Trial Hearing was scheduled for Tuesday, August 30, 2016 at 9 a.m. on a Trailing Docket before Judge Vega. Defendant pled "No Contest" and was found Guilty, received a sentence of 90 days unsupervised probation, a fine of \$300 with \$100 suspended, court costs of \$73 for a total of \$273 to be paid within 30 days.
11. ***State of NM v. Nava, Gabriel M-30-MR-2016-00081** Violation of County Ordinance 2014-04 Prohibited Contraband in Lincoln County Detention Center. Non-Traffic citation was issued by Sheriff's Stg. Warren June 13, 2016. A Misdemeanor Arraignment took place June 20, 2016 at which time Defendant pled "Not Guilty." A resolution was not reached at the July 26, 2016 Pre-Trial Hearing and a Trial was scheduled for August 30, 2016 at 2 p.m. before Judge Vega. Defendant did not attend the Pre-Trial Hearing, and the Court issued a Bench Warrant on August 30, 2016. Pre-Trial Hearing and Bond Forfeiture Hearing are both scheduled for October 18, 2016 at 9 a.m.
12. ***State of NM v. Gunkel, Ronnie M-30-MR-2016-00095** Violation of County Ordinance 2014-04 Prohibited Contraband in Lincoln County Detention Center. Criminal Complaint was filed July 26, 2016. A Misdemeanor Arraignment took place July 27, 2016 before Judge Mickie L. Vega at which time the Defendant pled "No Contest" and was found Guilty. Sentencing Hearing was scheduled for August 16, 2016 at 9 a.m. on a Trailing Docket before Judge Vega. Defendant did not attend the Sentencing Hearing, possibly due to health reasons. The Sentencing Hearing is re-scheduled for October 11, 2016 at 9 a.m.
13. ***State of NM v. Hawley, Shahrom M-32-MR-2016-00325** Violation of County Ordinance 2008-08: Animals running at large. Non Traffic Citation was issued by Sheriff's Deputy John Carpenter July 18, 2016 for no proof of Rabies vaccination for Defendant's dog. Defendant appeared before Judge Lund August 22, 2016 and pled "No Contest." He was found Guilty and received 90 days unsupervised probation, no fine, and court costs of \$73 to be paid within 30 days.
14. ***State of NM v. Thompson, Holly M-32-MR-2016-00326** Violation of County Ordinance 2008-08: Animals running at large. Non Traffic Citation was issued by Sheriff's Deputy John Carpenter July 18, 2016 for no proof of Rabies vaccination for Defendant's dog. Defendant appeared before Judge Lund August 22, 2016 and pled "No Contest." She was found Guilty and received 45 days unsupervised probation, no fine, and court costs of \$73 to be paid within 30 days.

Tort Claims Notices Received or Threatened

2016

Rains, Bonnie – Tort Claim Notice received January 18, 2016 alleging failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

Brazel, Stephanie – Tort Claim Notice received January 20, 2016 alleging injuries incurred due to Claimant stepping in an alleged uncovered water meter hole at 2801 Sudderth Drive, Ruidoso, NM.

William Gayford – Roger Linfoot – Tort Claim Notice received February 17, 2016 from Attorney W. Chris Nedbalek alleging 4th and 14th Amendments violations and "possibly other constitutional, statutory, regulatory, legal or equitable rights not specifically named."

Hill, Walter – Tort Claim Notice received March 8, 2016 via emailed correspondence from Mr. Hill alleging the unlawful disclosure of confidential information from Mr. Hill's Lincoln County personnel file.

Sonora Corporation (John Russell-CEO)-Tort Claim Notice received April 6, 2016 via correspondence from Mr. Russell in response to a Notice of Investigation from NM Construction Industries Division due to an alleged lack of final inspection and deviation from approved plans of construction in 2012 at 119 Bald Eagle Court, Alto, NM.

Jaramillo, Monica – Tort Claim Notice received April 8, 2016 alleging Lincoln County road department employee in the performance of his road grading duties damaged Ms. Jaramillo's vehicle.

Wagoner, John – Tort Claim Notice received April 12, 2016 via telephone call to Mr. Morel's office when Mr. Wagoner threatened suit against Lincoln County with respect to alleged accumulation of garbage at property on Highway 70.

Steward, Tynell – Tort Claim Notice received April 18, 2016 alleging abuse while incarcerated in Lincoln County Detention Center.

Coleman, Chad – Tort Claim Notice received April 25, 2016 alleging warrantless search and seizure and malicious prosecution.

Parsons-Williams, Karen – Tort Claim Notice received June 2, 2016 alleging negligent or malicious medical procedure performed at Lincoln County Medical Center on March 9, 2016.

2015

Cherry, Doris – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-compliance in remodeling the Lincoln County Courthouse buildings.

McDaniel, Carl – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade practices and/or unconscionable trade practices by GSWA.

Sehorn, Sean M. – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Lincoln County Detention Center failed to provide adequate medical treatment during inmate Sehorn's incarceration.

Lavin, Erica L. and Rathgeber, Jack – Tort Claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful termination.

Hanley, Constance – Tort Claim Notice received March 20, 2015 from Attorney John Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate, defamation of character, libel and abuse of process.

Capitan Iron Mine through A. Blair Dunn – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with Lincoln County Mine Ordinance 2009-01.

Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County. March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

Culp, Susan v. LCMC/Lincoln County: Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

Reyes, Roberto – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

Torres, Leopoldo: Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

Wallace, Stephen: Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

Rodriguez, Victor – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

Prudencio, Fabian and Corinne – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

Yates, Barbara – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

Davis, Jack and Rema – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

Capitan Iron Mine – Tort Claim Notice received Sept. 24, 2014 via email from A. Blair Dunn, alleging County trespass on private property.

L. Phillip Onsrud – Tort Claim Notice received Nov. 3, 2015 via email alleging lack of medical care while incarcerated in Lincoln County Detention Center.

Brown, Shelly – Tort Claim Notice received December 31, 2015 alleged failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

2014

Caughron, Brittany and Anderson, Amie – Tort Claim Notice received Oct. 24, 2014 by Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8th Amendment Rights.

Ryen, Allen – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek

alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

Inmate Group – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

Caughron, Brittany and Anderson, Amie – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln County Detention Center.

Inmate Group – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

Long, Cameron – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

McClamon, Brian – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging violations of U.S. Constitutional Amendment rights.

Diana Martwick, 12th Judicial District Attorney – Tort Claim Notice received Nov. 25, 2014 alleging lack of adequate office space provided by the County of Lincoln.

Inmate Group – Tort Claim Notice received Dec. 22, 2014 by attorney W. Chris Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

2013

Harrisburg Documents - Attempts to recover Lincoln County documents illegally taken from the County. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

Action: Approve, Moved by Commissioner Draper, Seconded by Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 4:10 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 5:08 PM.

Commissioner Draper attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

30. Signing of Official Documents

31. Next meetings:

- a. October 18 2016 - Regular Commission Meeting
- b. November 10, 2016 – Special Commission Meeting

32. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 5:09 PM.

County of Lincoln
Board of County Commissioners

Preston Stone, Chair

Dallas Draper, Vice Chair

Elaine Allen, Member

Thomas F Stewart, Member

[Signature]



F Lynn Willard, Member

ATTEST:


Rhonda Burrows, County Clerk

October 18, 2016
Date Approved

